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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,325	03/02/2004	Mauricio Sanchez	200316381-1	4396

22879 7590 05/14/2009

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EXAMINER

JEAN GILLES, JUDE

ART UNIT	PAPER NUMBER
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2443

NOTIFICATION DATE	DELIVERY MODE
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05/14/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/792,325	Applicant(s) SANCHEZ, MAURICIO	
	Examiner JUDE J. JEAN GILLES	Art Unit 2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 17 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,4-23,25,26 and 28-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4-23,25,26 and 28-43 is/are allowed.
- 6) ☒ Claim(s) 44-49 is/are rejected.
- 7) ☒ Claim(s) 48 and 49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in reply to communication filed on 02/17/2009.

Response to Amendment

2. In this Reply, claims 1,4-23, 25, 26 and 28-49 remain in the application. Claims 2, 3, 24 and 27 are cancelled herein without prejudice. Reconsideration of the claims is requested by Applicants in light of amendment to the claims and arguments regarding the pending rejections.

Response to Arguments

3. Applicant's arguments, see remarks on page 1-6 of Applicant Arguments/Remarks Made in an Amendment, filed on 02/17/2009, with respect to the rejection(s) of claims 1-5, 12, 20-22 and 34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Smith et al. (U.S. Patent Publ. No. 2008/0055158), and Claims 6-11, 13-19, 23-33, 35-38, and 35-49 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Narsinh et al. (U.S. Patent Publ. No. 2005/0201415), have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made for claims 44-49 in view of Bruckner et al. (Us Patent No. 6,317,688 B1).

Allowed Claims

4. Claims 1, 4-23, 25, 26, and 28-43 have been allowed.

Claim Objections

5. Claims 48 and 49 are objected to being identical claims with the same dependency.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 44-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Bruckner.

Bruckner teaches:

1. A network device, comprising:

a processor (figs 2, and 6);

a memory coupled to the processor (figs 2 and 6); and

means for limiting amount of traffic flow through the network device based

on applying a Kalman filter to information associated with the network device (col. 4,

lines 42-67, continue in col. 5, lines 1-7).

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45. (Currently amended) The device of claim 44, wherein the means for ~~regulating external network stimuli~~ limiting amount of traffic flow through the network device based on applying the Kalman filter includes executing a set of program instructions on the network device (figs. 2 and 6; col. 4, lines 42-67, continue in col. 5, lines 1-7).

46. (Currently amended) The device of claim 44, wherein the means for ~~regulating external network stimuli~~ limiting amount of traffic flow through the network device based on applying the Kalman filter includes executing a set of program instructions on another network device connected to the network device over a local area network (figs. 2 and 6; col. 4, lines 42-67, continue in col. 5, lines 1-7).

47. (Currently amended) The device of claim 44, wherein the means for ~~regulating external network stimuli~~ limiting amount of traffic flow through the network device based on applying the Kalman filter includes program instructions which execute to convert the network device to a different role (figs. 2 and 6; col. 4, lines 42-67, continue in col. 5, lines 1-7).

48. (Currently amended) The device of claim 44, wherein the means for ~~regulating external network stimuli~~ limiting amount of traffic flow through the network device based on applying the Kalman filter includes program instructions which execute to reduce network performance degradation on the network device (figs. 2 and 6; col. 4, lines 42-67, continue in col. 5, lines 1-7).

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49. (Currently amended) The device of claim 44, wherein the means for ~~regulating external network stimuli~~ limiting amount of traffic flow through the network device based on applying the Kalman filter includes program instructions which execute to reduce network performance degradation on a different network device (figs. 2 and 6; col. 4, lines 42-67, continue in col. 5, lines 1-7).

6. ***This action is made Non-Final.*** Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday-Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger, can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3301.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0800.

/Jude J Jean-Gilles/

Primary Examiner, Art Unit 2443

May 10, 2009